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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	3:98-cr-00108-HDM
)	3:17-cv-00200-HDM
Plaintiff,)	
)	
vs.)	ORDER
)	
MATEO HERNANDEZ-De LUNA,)	
)	
Defendant.)	
_____)	

May 9, 2017, the court entered an order denying the defendant's 28 U.S.C. § 2255 motion. (ECF No. 28). The court will deny reconsideration and a certificate of appealability for that order.

The standard for issuance of a certificate of appealability calls for a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c). The Supreme Court has interpreted 28 U.S.C. § 2253(c) as follows: "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); see also *James v. Giles*, 221 F.3d 1074, 1077-79 (9th


1 Cir. 2000). The Supreme Court further illuminated the standard for
2 issuance of a certificate of appealability in *Miller-El v. Cockrell*,
3 537 U.S. 322 (2003). The Court stated in that case:

4 We do not require petitioner to prove, before the
5 issuance of a COA, that some jurists would grant the
6 petition for habeas corpus. Indeed, a claim can be
7 debatable even though every jurist of reason might
8 agree, after the COA has been granted and the case has
9 received full consideration, that petitioner will not
10 prevail. As we stated in *Slack*, "[w]here a district
court has rejected the constitutional claims on the
merits, the showing required to satisfy § 2253(c) is
straightforward: The petitioner must demonstrate that
reasonable jurists would find the district court's
assessment of the constitutional claims debatable or
wrong."

11 *Miller-El*, 123 S.Ct. at 1040 (quoting *Slack*, 529 U.S. at 484).

12 The court has considered the issues raised by defendant, with
13 respect to whether they satisfy the standard for issuance of a
14 certificate of appeal, and determines that none meet that standard.
15 The court therefore denies a certificate of appealability with respect
16 to the court's denial of defendant's 28 U.S.C. § 2255 motion. The
17 court also denies the defendant's motion to reconsider (ECF No. 29).

18 DATED: This 26th day of June, 2017.

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20 UNITED STATES DISTRICT JUDGE
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